

THE LAW OFFICES OF

STEVEN L. KESSLER

January 27, 2006

**ELECTRONICALLY FILED
COURTESY COPY BY FACSIMILE**

The Honorable John Gleeson
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: ***United States v. John Surgent***
CR-04-364 (Gleeson, J.)

Dear Judge Gleeson:

This office represents non-party Regina Surgent in the above proceeding, and respectfully submits this letter as a final response to plaintiff's seven-page, single-spaced letter brief, dated January 25, 2006, and filed with the Court late that day.

The letter, by its premise, admits that it does not affect the legal arguments already made and that, in fact, plaintiff loses on the law. *See, e.g.*, Pl. Ltr. at 2 ("Given the facts of this case, the only remedy at law apparent (other than that available under section 853 and Rule 32.2) is an action under the Federal Debt Collection Procedure Act. But such an action cannot provide an efficient (and thus adequate) remedy." (citation omitted)). Indeed, the FDCPA does not apply to civil forfeiture. *See* 28 U.S.C. § 3001 (c) (FDCPA applies only to "debts" such as fines and restitution orders).

Instead, plaintiff tells the Court that, although its restraint of Ms. Surgent's assets was without legal support, the Court should 'do the right thing' and affirm the propriety of plaintiff's actions. The fact that the government is attempting to use equity against an innocent woman who is seeking the release of funds to feed her family may represent a new low in federal forfeiture litigation.

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To the extent that plaintiff is seeking mercy from this Court because it cannot prevail on the law, Ms. Surgent is content to rests on her prior submissions. If, however, the Court feels that plaintiff's letter raises issues not addressed in Ms. Surgent's previous filings, Ms. Surgent stands ready to address those issues and requests appropriate time to do so.

Respectfully submitted,

Steven L. Kessler

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cc: AUSA Kathleen A. Nandan (*by facsimile*)